



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Thirtieth day of November Two Thousand Eighteen

PRESENT

WEB COPY

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.20569 of 2018

MUTHUVEL@MUTHUKRISHNAN

... PETITIONER / ACCUSED

Vs

STATE BY

THE INSPECTOR OF POLICE,
CBCID, OCU, TRICHY.

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.E.JEYASEELAN Advocate

For Respondent : Mr.K.SUYAMBULINGA BHARATHI Govt. Advocate

(Crl. Side)

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 25(1-B)(a) of Arms Act, 1959 r/w Sections 399 and 402 of IPC., in Crime No.1 of 2018, on the file of the respondent Police, seeks anticipatory bail.

2. The case of the prosecution is that the accused was found in illegal possession of unlicensed Arms and ammunition.

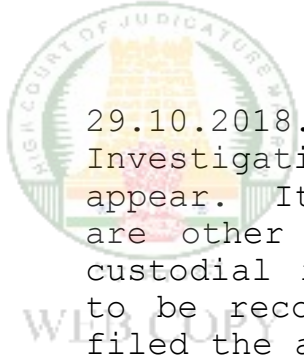
3. Mr.E.Jeyaseelan, the learned counsel appearing for the petitioner would submit that the petitioner's name does not find place in the FIR and he has been made as an accused in the above case, on the confession of co-accused viz., A1 / Parameswaran. He further submitted that the petitioner was summoned and interrogated by the respondent Police on several times. The petitioner and his relatives houses were searched by the respondent on 08.02.2018 and nothing was seized. The petitioner neither evaded nor failed to co-operate with the investigation. The petitioner is doing real estate business for the past 20 years. The petitioner admits that the first accused had introduced himself as Steephan in the year 2013 and approached the petitioner with respective real estate business. The said Parameswaran @ Steephan met petitioner two or three times for hand loans etc. The petitioner came to know the real name of A1 only through the media, after his arrest and that is of his relationship with A1. Further, the petitioner is not even remotely connected with any of the accused in this case. Though the petitioner received summon before the respondent Police to appear for enquiry on 26.10.2018, on that day, due to demise of the



petitioner's relative, he could not appear before the respondent Police. He also submitted that the petitioner is willing to co-operate with the investigation. Therefore, the learned counsel prayed for anticipatory bail in favour of the petitioner.

4. Mr.K.Suyambulinga Bharathi, the learned Government Advocate (crl.side) appearing for the respondent, on instructions, would submit that on 26.01.2018, the Inspector of Police, CBCID, Organized Crime Intelligence Unit (OCU), Trichy, had received an intelligence source that a gang was trying to sell Pistols and Bullets in Trichy. Based on the information, a suspect viz., one Parameswaran / A1, was enquired near Kalpana Hotel, Central Bus Stand. While searching his black shoulder bag, it was found 7.65 mm Pistol and 7.65 mm Bullets 5 numbers, without proper licence or Government Order. On enquiry he stated that he was accompanied with one Nagaraj and Siva and they were staying in Room No.43 of Kalpana Hotel. A search was conducted in the room and found Nagaraj and Siva and recovered another 7.65 mm pistol and bullets 5 numbers from him. On enquiry, it is found that they were planning to sell the same in the black market, if not they planned to commit dacoity along with his associates. Further, it came to know that two other persons on seeing the Police had escaped from the Hotel Room. The Pistols, bullets, Cellphone, Shoulder Bag and other articles found were seized by Seizure Mahazar. All the accused were produced along with the properties through the Special Report before the Cantonment Police and the case was registered in Crime No.156 of 2018, for the offences under Sections 25(1-A), 25(1-B)(a) of Arms Act, 1959 r/w Sections 399 and 402 of IPC.

5. Thereafter, in view of seriousness of the offences, the case was transferred to the present respondent, as per the order, dated 04.02.2018, of the Director General of Police, Tamil Nadu, the case was transferred to the present respondent. On 05.2.2018, the respondent Police filed an affidavit before the learned Judicial Magistrate No.VI, Trichy, for taking Police custody of the accused. The accused given confession that they were receiving pistols from one Krishna Murari Diwari of Bina, Madhya Pradesh. A special team was formed and they proceeded to Bina Madhya Pradesh and arrested the said Krishna Murari Tiwari, on 11.02.2018. Thereafter, he was remanded before the learned Judicial Magistrate No.VI, Trichy, on 14.02.2018 and was taken Police custody on 19.02.2018 and recorded his confession. He confessed that he has sold 11 Pistols and 90 Bullets to Ettappan and Kalaisekar. A1 / Parameswaran in his confession, had confessed that he has got 4 Pistols and 30 Bullets from Madhyapradesh through Ettappan on 13.01.2018 and of which he sold two Pistols and Bullets to the petitioner / A9, in January 2018, through one real estate broker for Rs.2,20,000/-. On prior intimation to the jurisdictional Court on 08.02.2018 the petitioner's house was searched and thereafter, the accused was summoned several times for enquiry but he had not appeared before the investigating Officer. On 23.10.2018, a summon under Section 160(1) and 91 Cr.P.C., was served to the petitioner, for enquiry, on



29.10.2018. But the petitioner did not appear before the Investigating Officer and sent an intimation that he is unable to appear. It is submitted that other than the confession of A1, there are other materials available against this petitioner. Only on custodial interrogation, the remaining two Pistols and Bullets are to be recovered from the petitioner. In the meanwhile, he has filed the above petition before this Court, for seeking anticipatory bail. Further it is found that the petitioner / accused is doing real estate business and a politically influenced person and is not co-operating for investigation and avoiding to appear for enquiry. The remaining two pistols and two bullets are to be seized from the petitioner / accused.

6. I have heard the learned counsel appearing on either side and perused the materials available on record.

7. Based on the confession of A1 that he had sold 2 Pistols and 20 Bullets to the petitioner through one Aravind and other than this, there are other materials available against the petitioner. The Police searched the house of the petitioner and his relative. In the absence of the petitioner nothing could be recovered. All the other accused have been arrested and had come out on statutory bail only. Further, custodial interrogation of the petitioner is necessary to recover the Pistols and Bullets.

8. Considering the above facts and circumstances of the case, this Court is not inclined to grant anticipatory bail to the petitioner. Hence, the Anticipatory Bail Petition is dismissed.

sd/-

30/11/2018

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE JUDICIAL MAGISTRATE NO-VI, TRICHY.

2 THE CHIEF JUDICIAL MAGISTRATE, TRICHY.

3 THE INSPECTOR OF POLICE,
CBCID, OCU, TRICHY

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.E.JEYASEELAN Advocate SR.No.22416
PS/JC/SAR-1/05/12/2018/3P/6C

ORDER

IN

CRL OP (MD) No.20569 of 2018

Date : 30/11/2018